

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LAWRENCE K.,

Plaintiff,

-v-

5:23-CV-496

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

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Special Ass't U.S. Attorney

DAVID N. HURD
United States District Judge

ORDER ON REPORT & RECOMMENDATION

On April 21, 2023, plaintiff Lawrence K.¹ (“plaintiff”) filed this action seeking review of the final decision of defendant Commissioner of Social Security (“Commissioner”) denying his application for Disability Insurance Benefits (“DIB”) under the Social Security Act (the “Act”). Dkt. No. 1.

Because plaintiff did not consent to the direct exercise of Magistrate Judge jurisdiction, the case was referred to U.S. Magistrate Judge Christian F. Hummel for the issuance of a Report & Recommendation (“R&R”). Dkt. No. 5. Thereafter, the Commissioner filed a certified copy of the Administrative Record, Dkt. No. 6, and the parties briefed the matter in accordance with General Order 18, which provides that an appeal taken from the Commissioner’s denial of benefits is treated as if the parties have filed cross-motions for a judgment on the pleadings, Dkt. Nos. 11, 18, 19.

On July 10, 2024, Judge Hummel advised by R&R that plaintiff’s motion should be denied, the Commissioner’s motion be granted, the Commissioner’s final decision be affirmed, and that plaintiff’s complaint be dismissed. Dkt. No. 20. Plaintiff has lodged objections. Dkt. No. 21. Broadly speaking, plaintiff argues that Judge Hummel’s R&R should be rejected because the

¹ In accordance with a May 1, 2018 memorandum issued by the Judicial Conference’s Committee on Court Administration and Case Management and adopted as local practice in this District, only the first name and last initial of plaintiff will be mentioned in this opinion.

ALJ's "consistency" discussion was inadequate and that, even assuming otherwise, the ALJ's summation of the record evidence fails to establish how plaintiff would perform in light of the stressors of a workplace setting. *Id.*

Upon *de novo* review, plaintiff's objections must be overruled. The record reflects that Judge Hummel considered and rejected the general contours of the arguments advanced by plaintiff. A further review of plaintiff's objections in light of the ALJ's written decision and Judge Hummels' R&R confirm that plaintiff's arguments do not warrant relief. Accordingly, the R&R is accepted and will be adopted. *See* 28 U.S.C. § 636(b)(1)(C).

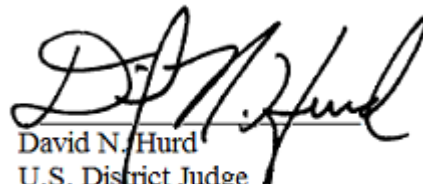
Therefore, it is

ORDERED that

1. The Report & Recommendation (Dkt. No. 20) is ACCEPTED;
2. Plaintiff's motion is DENIED;
3. The Commissioner's motion is GRANTED;
4. The Commissioner's final decision is AFFIRMED; and
5. Plaintiff's complaint is DISMISSED.

The Clerk of the Court is directed to terminate the pending motion, enter a judgment accordingly, and close the file.

IT IS SO ORDERED.


David N. Hurd
U.S. District Judge

Dated: August 15, 2024
Utica, New York.